



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No.1807-00

8 August 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 2 August 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Marine Corps Reserve on 15 February 1996 for eight years as a PFC (E-2). You were ordered to initial active duty for training on 20 May 1996. The record reflects that on 30 July 1996 a physical evaluation board (PEB) found you unfit for further service due to an inferior floor fracture of the right eye. You were advised of the PEB findings and waived your right to a formal hearing. On 15 September 1996, you received an uncharacterized entry level separation by reason of physical disability and were assigned an RE-3P reenlistment code.

You provide a copy of a DD Form 214 which shows that subsequent to your discharge from the Marine Corps Reserve you enlisted in the Army National Guard and served a period of active duty for training from 14 September 1997 to 13 January 1998.

Regulations authorize the assignment of an RE-3P or RE-4 reenlistment code to individuals discharged by reason of physical disability. An RE-3P reenlistment code means that an individual is eligible for reenlistment except for the disqualifying factor which led to discharge. This code may be waived by any branch of service if there is sufficient medical evidence to convince recruiting officials that the disqualifying factor no longer exists. The Board has no authority to waive a reenlistment code, but such waiver authority rests with the branch of service to which application for enlistment is made. The fact that the National Guard waived the reenlistment code does not mean the reenlistment code was erroneously or unjustly assigned. Your claim that you have been denied employment by a local police department because of your reenlistment code does not provide a valid basis for changing a correctly assigned reenlistment code. Since you received the most favorable code that may be assigned to individuals discharged under similar circumstances, the Board could find no error or injustice in your assigned reenlistment code. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director